



# Graham Estate Planning

*Plan for Tomorrow, Prepare for the Future*

## **ESTATE AND PROBATE PROCESS**

### **When Your Loved One Dies With A Will**

If your loved one died with a will, you must file the will in the Probate Court in the county where the deceased was domiciled at the time of his or her death within a reasonable period of time. If your loved one was not domiciled in Georgia at the time of his or her death, you may file the decedent's will in any Georgia County where he or she owned property. You are required by law to file the decedent's original will with the Probate Court; however, you are not required to probate a will. If an estate has no assets, there may be no need to probate a will. Wills that are filed not for probate are scanned and stamp-filed to be made a part of the official record. There is no fee for filing a will not for probate.

### **When Your Loved One Dies Without A Will**

If your loved one died without a will, you may file to administer his or her estate in the Probate Court of the county where he was domiciled at the time of his or her death. If your loved one was not domiciled in Georgia at the time of his or her death, you may file to be appointed as the administrator of the estate in any Georgia county where he or she owned property. When a person dies without a will, his or her estate property is divided and distributed according to the intestacy laws of Georgia. In other words, the court will decide.

### **Identifying the Heirs of An Estate**

Heirs and beneficiaries may not be the same people. Heirs are determined by law at the time of your death and are the persons who would inherit from your estate if you died without a will. Beneficiaries are the people or organizations in a will to receive your property. An Heirs Determination worksheet is available at [www.gaprobate.gov](http://www.gaprobate.gov) or [probate.georgiacourts.gov](http://probate.georgiacourts.gov).

### **Graham Estate Planning**

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1-888-41WILLS

## Notice to Heirs

When a will is offered to the Court for probate or when an administration is opened, the law requires that the heirs of the deceased receive notification and are given the opportunity to object. This is when things usually become complicated because without a will for a guide, the survivors feel entitled. When an heir objects, it can delay the process of appointing a personal representative for the estate and delay the transfer of assets. If all of the heirs consent, a personal representative can be appointed as long as there are no other pending issues.

## Closing An Estate

When all debts, taxes, and expenses of administration have been paid, all tax returns have been filed and audited (if required), and all remaining assets have been distributed, the personal representative (and/or the estate's attorney, if any) should apply to the Probate Court for discharge from office and all liability. This is done by filing a Petition for Discharge. A discharge formally closes the estate, terminates any further requirement of filing returns, discharges the personal representative from office, and discharges the personal representative and the surety on the personal representative's bond, if any, from liability. A discharge solely from office, but not from liability, may also be obtained in an abbreviated procedure, if desired.

## Court Filing Fees

Court filing fees are separate and apart from attorney fees. Each Georgia county has different fees and all fees are due to the court at the time of filing. Prior to mailing in or filing any petition, you should contact the clerk's office of the county in which the decedent was domiciled. All pleadings filed by mail must be signed, verified, and include all appropriate fees.

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