

Probate is a court supervised process for administering and distributing a person's estate after their death. Having a will alone does not avoid the probate process. A will informs the world where you direct your property to go, and probate is required to carry out your wishes expressed in the will. Probate can be avoided several ways. Here are three major ways:

- **Leave no assets.**
- **Co-title probatable assets with transfer on death (TOD) account(s) so that no probate is required.** A transfer on death (TOD) account automatically transfers your assets to a named beneficiary when you pass on. With a TOD account, you can name one or multiple beneficiaries, such as another person and The Hearts Center, and divide your assets in any way that you would like. Check the laws in your state regarding TOD accounts.
- **Create a trust.** A trust can avoid probate because once you have a trust, all of your assets are transferred to the trust during your lifetime. This avoids having the court transfer your assets after your passing. One of the primary benefits of having a trust is to avoid probate.

Here are four reasons you might choose to avoid having your estate pass through probate:

- **Lack of Privacy:** Probate is public. As a court proceeding, the hearings and documents in probate are open to the public.
- **Numerous rules and procedures:** Probate is a court supervised process. Court approval could be required at every step in the process, from appointing the initial personal representative for the estate, proving the will, confirming dispositions of property, approving the inventory and accounting of the estate, settling disputes between creditors or beneficiaries of the estate, and final distributions of the estate.
- **Delay:** Probate involves time and delay in administering and distributing the estate. Even simple and uncontested probate proceedings can take many months to a year. If there are claims, disputes, or other complications in the proceedings, the process can take longer and all monies would be unavailable to the beneficiaries during this time.
- **Fees:** Probates usually involve significant attorney's fees. Although parties certainly have the option to represent themselves in probate, due to all the procedural requirements in probate, which is usually quite different from the procedures in a typical lawsuit, attorneys are usually recommended in all but the simplest of probate estates. Attorney's fees are usually paid from the estate based on a percentage of the value of the estate. For example, in California, the fees to administer an estate with a single property valued at \$300,000 would be

approximately \$9,000. If there are complications in the estate administration that requires extraordinary services, the fees would be even more.

Some probates are long and expensive; others can be easy. Both depend on the size and complexity of your estate. To be proactive, seek legal planning to avoid probate and protect your personal assets.

Please contact us for further details at legal@heartcenter.org.