



FORT GORDON CYBER CENTER OF EXCELLENCE
OFFICE OF THE STAFF JUDGE ADVOCATE
Legal Assistance Office



This Information Paper from the Fort Gordon Legal Assistance Office contains general legal information on a topic upon which Legal Assistance Attorneys typically advise. The information provided is general in nature and does not constitute formal, specific legal advice. If you wish to receive legal advice specific to your situation, please consult an attorney.

CYBER ADVOCACY: THE PROBATE PROCESS IN GEORGIA

A will is the legal document that allows someone to direct who is to receive their property when they pass away, but the will itself does not allow access to their accounts or property. The will must be offered for Probate in the county Probate court before the accounts or property can be accessed. If you take the will to a bank and ask for access to the person's account, the bank will likely tell you to bring them the Letters Testamentary. The Letters Testamentary is the document issued by the Court appointing the executor of the estate.

Your spouse or parent has passed away, and you have their will. What is the next step? First you need to determine if probate is necessary. Ask yourself is there any property, bank account, stock, or investment accounts that were just in your spouse or parent's name. Any accounts that have both your name and your spouse or parent's name on them will, most likely, transfer to you automatically under the law. If there are no accounts, property, or assets that you need to access, then you will not be required to offer the will for probate. You may simply take the will to the county Probate Court and have the will filed for record with the Probate Court.

If you discover that there is property, accounts or assets that you do not have access to then you will need to probate the will. Probate is the process that the Court uses to certify that the will is the last will and testament of the person who passed away and appoints the executor or executrix to administer the estate. You are not required to hire an attorney to probate a will, but it is highly recommended to hire an attorney to ensure the process is properly handled.

What do you need to take with you to the Probate Court or to meet with the attorney? First, you need a copy of the death certificate and the original will. If you cannot find the original will, you can take a copy of the will, but it is significantly easier to probate the original will. Probating a copy of the will requires an affidavit or testimony from one of the witnesses to the will to prove that the copy is the same as the original and that it was properly signed and witnessed. You will also need to provide the information for the heirs of the person who passed away, such as: Was the person married? How many children did they have? Did they adopt any children? Did any of their children die before they died? If a child of theirs died, did that child have any children? This information will be necessary to probate the will.

The probate process in Georgia is relatively simple and inexpensive when compared with other states. In Georgia, you can typically receive the Letters Testamentary within two months. A simple probate should cost approximately \$2,000 or less with court costs being less than \$500. The time it takes to administer the estate depends on multiple factors. If you do not use an attorney, do not forget that you are required to run a debtor and creditor's notice in the local newspaper. Again, it is recommend that you consult with an attorney who is familiar with the probate process. The type of Probate action to be filed should be carefully considered based on the facts and circumstances of each individual person. There

are times when probating a will is not in the best interest of the parties and other options should be pursued.

Additional Information

For additional information, the Fort Gordon Legal Assistance Office is located at 267 3rd Avenue, Building 35202. You may need to reach the office by calling (706) 791-7812 / 7813. Please be advised you must have an appointment to consult with one of the attorneys; however, paralegals are available during hours of operation to answer general questions.