

Do I Need Probate in Texas?

Most people do not spend much time thinking about probate until they are suddenly forced to. A loved one passes away, paperwork starts arriving, accounts get frozen, and someone in the family realizes they are now responsible for “handling the estate.” That is usually when the questions begin. Do we need probate? Is there a simpler way? What happens next? The



good news is that probate in Texas is often more manageable than people expect once you understand what actually needs to happen and what options may be available.

What is Probate?

Probate is the legal process used to transfer property after someone dies. In Texas, probate may be used to prove a will, appoint an executor or administrator, identify heirs, deal with debts, and give someone legal authority to handle estate property. If your loved one had assets that cannot be transferred without court authority, then some form of probate may be required.

But not every asset goes through probate.

The First Question: Do We Need Probate?

Probate is needed when the deceased person owned property in his or her individual name and there is no other legal way to transfer or access it. Sometimes the issue is obvious, like a frozen bank account or a vehicle that cannot be sold. Other times it is less obvious. A spouse may discover that the home was titled only in the deceased person's name, or a lawsuit may require someone to be formally appointed with the legal authority to act on behalf of the estate.

Assets That May Not Require Probate

Not all assets go through probate. If the deceased person named a living beneficiary for an account or insurance policy, those assets can usually be easily transferred by providing a copy of the death certificate directly to the institution. Some people also take advantage of Trusts to allow assets to pass without going through probate. Property that is held in Trust will usually pass without the need for probate.

When Probate is Usually Needed

Probate is often needed when the deceased person owned property in his or her individual name and there is no other legal way to transfer it. Common examples include:

- A house titled in the deceased person's name;
- A bank account with no surviving joint owner or beneficiary;
- A vehicle titled in the deceased person's name;
- Mineral interests in the deceased person's name;
- A lawsuit or claim belonging to the estate; and
- Assets payable to "the estate of..." instead of a beneficiary.

What If There Is a Will?

A common misunderstanding is that having a will means probate is avoided. That is usually not true. A will gives instructions of what should happen with the deceased's property, but it often still must be admitted to probate before the executor has authority to follow those instructions. When there is a will, we still go back to the question of whether there are assets that cannot be reached. If so, probate is needed to give someone the authority to act.

What If There Is No Will?

When there is no will, Texas law decides who inherits. This is called intestacy. The court may need to determine the legal heirs before property can be transferred. This process will not override beneficiary designations, but covers the property that cannot otherwise be transferred. People are often surprised to learn that the deceased person's wishes are not even considered during this process.

Are There Simpler Alternatives to Full Probate?

Sometimes. Texas gives several alternatives to probate that work in specific situations. Depending on the facts, options such as muniment of title, small estate affidavits, or affidavits of heirship may be used to avoid a full probate. Also, if the deceased person planned correctly, it is possible that the whole estate can be handled with little or no court involvement. At Pinney Law Firm we carefully review each case to see if any alternatives are available before starting the probate process.

What Should You Do First?

If you are trying to determine whether probate is needed, start by gathering:

- The original will, if one exists;
- A list of assets;
- Account statements;
- Deeds;
- Beneficiary information; and
- Death certificates.

Once those pieces are identified, it becomes much easier to determine whether probate is necessary or whether a simpler option may be available.

Do You Need a Probate Lawyer?

If the estate is simple and all assets pass outside probate, you may not need a probate attorney. But if there is real estate, no will, unclear heirs, frozen accounts, creditor issues, or uncertainty about authority, getting legal guidance early can save time and prevent mistakes. If a probate action is needed, most courts require an executor or administrator to work through a licensed attorney.

Why Guessing Can Be Expensive

Families often try to avoid or ignore probate because they are afraid it will be expensive, slow, or overwhelming. But avoiding probate the wrong way can create bigger problems later. In my office, I make time for quick, free, consultations about probate. A short conversation can often provide clarity about what needs to happen next.

Probate Help in Baytown, Chambers County, and East Harris County

At Pinney Law Firm, we help families determine whether probate is needed and what path makes the most sense. We focus on cooperative probate matters and work to make the process as clear and low-conflict as possible.

Talk With a Texas Probate Attorney

If you are not sure whether probate is required, do not guess. A short conversation can often save your family from delay, confusion, and unnecessary expense. As an experienced probate attorney, I am here to assist you in navigating these choices so that you can do what is best for your family.

—By Marc Pinney